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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600
DECISION ON PETITION

In re Application of
Shiro Omori, et al.
Application No. 09/584,999
Filed: June 1, 2000
For: **SIGNAL PROCESSING APPARATUS,
METHOD OF THE SAME, AN IMAGE
PROCESSING APPARATUS AND METHOD OF
SAME**

This is a decision on the petition filed December 12, 2005, based on M.P.E.P. 711.03(c)(II), and pursuant to 37 C.F.R. § 1.181(a), to withdraw the holding of abandonment. No fee is required.

This application became abandoned for failure to timely file a proper reply to the Restriction mailed June 16, 2004. A Notice of Abandonment was mailed on January 11, 2005.

Petitioner alleges that the restriction mailed June 16, 2004 was not received and that the restriction requirement was mailed to the former attorney of record. Petitioner alleges that a Revocation and Power of Attorney request was filed November 9, 2001.

A review of the application file reveals that the written restriction requirement was mailed to the address of record. The application file does not reveal the Revocation and Power of Attorney alleged to have been filed on November 9, 2001.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Inform the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. [emphasis added]

Petitioner includes a statement that a Revocation and Power of Attorney was filed prior to the written restriction requirement. Petitioner also provides, in addition to other evidence, a copy of the Revocation request, a copy of a return post-card for the Revocation request, a transmittal letter for the Revocation and Power of Attorney with a certificate of mailing dated November 9, 2001 and also a copy of applicants' file jacket List of Actions for the subject application. The

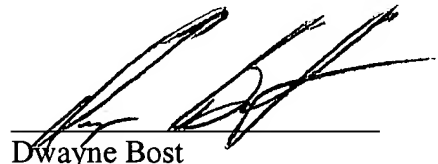
List of Actions includes an entry for the transmittal of the Revocation and Power of Attorney on November 9, 2001.

Although the return post-card for the Revocation and Power of Attorney was not date-stamped as having been received in the Office, petitioner has satisfactorily demonstrated that said Revocation and Power of Attorney was in fact sent to the Office prior to the mailing of the written restriction requirement, but not received. Accordingly, the Office action was mailed to a previous correspondence address resulting in an irregularity in mailing.

In view of the above stated reasons the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for entry of the election which accompanied the subject petition. From there, the application will be forwarded to the examiner for action in appropriate turn.

A handwritten signature in black ink, appearing to read 'Dwayne Bost', is written over a horizontal line.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications